

Superior Court	:	Bruni Pizarro and Daniel Pizarro
New Haven, CT	:	v.
	:	Department of Public Works, New Haven

**Appeal of Administrative Decision of  
February 1, 2023 Decision by New Haven Department of Public Works**

Of note: The appeal deadline was Saturday, February 11, 2023. However, this deadline did not fall on a business day, and as such, we are submitting said appeal on the next business day, Monday, February 13, 2023.

As a resident and property owner on Dayton Street, this appeal aims to address the public hearing decision<sup>1</sup> as reported in the article<sup>2</sup> by Paul Bass for the New Haven Independent dated February 6, 2023, of the planned clearcutting of five street trees along Dayton Street in Westville, a congested state route in New Haven, CT. The residents of Dayton Street are primarily Black and Latinx working class families and the constant idling of cars and continuous passage of emergency vehicles and minimal treescapes exacerbate environmental justice concerns.

The following are arguments in favor of keeping the trees (that are deemed in good condition):

1. The public hearing was held on Tuesday, January 31, 2023 at 10am, an inopportune time for most working families to attend. To my knowledge, no teleconferencing options were made available. It remains unclear whether there was proper notice of hearing to allow for accessibility and greater inclusivity in said meeting.
2. To the best of our knowledge, no clear process has been communicated to residents about what happens after the trees are cleared. Four of the 5 trees are red maples<sup>3</sup> which coppice or sprout roots. If the trees are clearcut, will the tree stump be removed from its roots? If the tree stump remains and the roots are not adequately removed, red maples can continue to sprout roots well after the tree removal. The opposite, unintended outcome of sidewalk buckling can occur given the strong likelihood of root

---

<sup>1</sup> <https://www.newhavenct.gov/home/showpublisheddocument/17384>

<sup>2</sup> [https://www.newhavenindependent.org/article/5\\_trees\\_condemned\\_others\\_rescued](https://www.newhavenindependent.org/article/5_trees_condemned_others_rescued)

<sup>3</sup> [https://www.srs.fs.usda.gov/pubs/misc/ag\\_654/volume\\_2/acer/rubrum.htm](https://www.srs.fs.usda.gov/pubs/misc/ag_654/volume_2/acer/rubrum.htm)

coppicing. To augment this point, State Representative Pat Dillon, was cited in the Independent article stating that "[we must] require DOT (Department of Transportation) to follow a process that we set up last year for DEEP [Department of Energy & Environmental Protection] before they yank trees." The process has not been clearly articulated to those who will be most impacted by this decision.

3. Annual temperatures and heat waves are expected to increase significantly<sup>4</sup> by 2050. According to this article, urban heat island effect is expected to raise temperatures in cities by 5 degrees during the day and 22 degrees in the evenings. Urban tree cover<sup>5</sup> is critical for environmental justice communities as it could naturally increase cooling of ambient temperatures. Further, green spaces can mitigate poor mental health outcomes.<sup>6</sup> The removal of trees will further increase temperatures of ambient air, making Dayton Street a warmer hot spot, which can inevitably increase energy burdens for residents who are already dealing with cumulative economic stressors. Also, the clearcutting of trees on Dayton Street can potentially worsen public health outcomes (i.e. chronic pulmonary conditions, asthma, etc) and mental health outcomes. Access to trees and verdant spaces are a right that every resident should have, especially those who are facing disproportionate pollution burdens and who are a part of a special class of residents - Black and Latinx/e low-income/working class families. Residential racial segregation<sup>7</sup> continues to exist in cities and it's important to mitigate these historical trajectories so that these urban spaces allow for *all* residents to access and benefit from communal resources such as trees and green spaces to augment quality of life standards.
4. It is well known that it takes decades to grow trees like these and Dayton street, which is already congested and polluted, really needs the air purification and shade provided by the existing trees. As countless studies show, street trees, slow car traffic. This is really important on a street that is so heavily trafficked. The city thinks it can put a new sidewalk in without destroying these great resources. It is not uncommon to see accidents on the street. Dayton Street bisects Whalley Ave, a dense street that is well known for speeding, car accidents and hit and runs. A vehicle overturned in front of my house summer of 2022 as they turned onto Dayton from Whalley Ave (see attached image). However, the DOT is claiming that the trees must be removed in the interests of "safety." How does removing these trees improve the safety of the public? It is better for residents to have the shade, the cleaner air, and the buffer from traffic to have big, tall trees between pedestrians and motor vehicles. It is better for motorists for traffic to move slower, which Dayton Street trees have proven to do. Who benefits? If the City and other decision makers are concerned about "safe access for all users of this street and address public safety," then we wholly urge the State DOT to implement the new sidewalk while safeguarding the trees that are in good condition.
5. If it's "not the City's policy to remove trees when completing a sidewalk project" especially if they are deemed by the City's Tree Warden to be in "good condition," then why would the State DOT require the City to clearcut all the trees to get a permit? There needs to be alternatives in place, as I've seen in other areas where workarounds can be built around the tree structure to reroute sidewalks that can increase public accessibility whilst still maintaining the neighborhood's critical tree canopy.

---

<sup>4</sup> <https://today.uconn.edu/2022/10/smart-responses-to-immediate-needs-assessing-the-scale-of-cts-urban-heat/>


<sup>5</sup> <https://www.pnas.org/doi/epdf/10.1073/pnas.1917213116>

<sup>6</sup> <https://www.pnas.org/doi/epdf/10.1073/pnas.1807504116>


<sup>7</sup> <https://www.nature.com/articles/s42949-021-00022-0>

As residents of this neighborhood and in the spirit of equity and environmental justice, we implore the City and State to intervene on behalf of the most marginalized in New Haven. This is an issue of public safety; trees slow down traffic, provide shade and cooling opportunities, and reduce energy burdens for those that are energy insecure. Given the inevitable trajectory of cities growing hotter, we implore City and State legislators to act now to mitigate worsened health and quality of life outcomes for the most vulnerable. As such, we respectfully request that the Court consider this appeal in support of reversing this decision.

Thank you for your time and consideration in this matter.



Bruni Pizarro  
Yale School of the Environment, Master's of Environmental Science, 2019



Daniel Pizarro  
Yale Climate Engagement Fellow, 2022-2023





**NEW HAVEN DEPARTMENT OF PUBLIC WORKS**

**Jeffrey Pescosolido, Director**

34 Middletown Ave, New Haven, CT 06513

P (203) 946-6132 F (203) 946-7357



**Justin Elicker  
Mayor**

February 1, 2023

**Public Hearing Decision**

**Five trees to be removed on Dayton St. between Fairfield St. and Fountain St.**

A Public Hearing was held on Tuesday, January 31, 2023 at 10:00am in the location of the five trees.

**Attendees:**

*City of New Haven:* Annie Mixsell, Tree Warden and Tree System Coordinator; Giovanni Zinn, City Engineer

Ravenna Michelson, 169 Alden Ave; Russell Whitfield, 234 Alden Ave; Juan Alvarez, 16 Dayton St; Richard Furlow, 62 Fairfield St; Shelly Smith, 284 West Elm St; Sandra Caro, 7 Marvelwood Dr; Paul Chambers, 48 Fairfield St; Catherine Adams, 20 Dayton St; Daniel Fauck, 18 Dayton St; Thomas Taylor, 287 West Elm St.

**Overview:**

The trees were posted for removal in 2021 in anticipation of a full sidewalk replacement on both sides of Dayton St, state road Rt. 122. The City, Board of Alders, and Resource Allocation Committee approved the project because the sidewalk is in poor condition. Under state law, the City has been given the responsibility to maintain sidewalks. The City must submit plans to the State to receive a permit in order to do the work. Plans were originally submitted with no tree removals and the City received a letter back from CT DOT stating that all trees need to be removed. At that point, Giovanni spoke to additional people at the state level, but ultimately the answer was that the trees needed to be removed in order to get a permit. Annie recently reached out to the District 3 Special Services Section Manager and received the same answer. Dayton St is a heavily trafficked thoroughway for both pedestrians and vehicles. The City needs to ensure safe access for all users of this street and address public safety. It is not the City's policy to remove trees when completing a sidewalk project, but these trees fall under the jurisdiction of the DOT.

**Discussion:**

During the hearing there was a comprehensive discussion on the typical process for removing trees within the City right-of-way and industry standards for construction around tree roots. Attendee concerns focused on the numerous benefits that trees provide and the role of our urban trees in mitigating climate change. It was noted that mature trees provide greater ecosystem benefits when compared to newly planted trees. Written comments received prior to the hearing included loss of property value, traffic calming benefits of trees, reduced shade on sidewalks, and increased air pollution on that block from idling cars. Sandra Caro was concerned with flooding and the ability of trees to reduce flooding and that new development within the City does not have enough greenery to offset pavement. Ravenna Michelson stated that this project demonstrated short-sightedness in the fight against climate change. Tom Taylor noted that when pushing his wife in a wheelchair down the road he must cross into the road and traffic because the sidewalk is not navigable. Paul Chambers discussed that the motivation behind the State's policy is likely due to the multiple lawsuits against the State for large sums of money resulting from tree accidents. The discussion shifted to ways that the residents could make the State change its policy and Alder Furlow provided the attendees with his contact information, as well as the contact information for State Representative Pat

Dillón. Alder Furlow also noted that it is his desire for this to be walkable neighborhood and the sidewalk is a liability in its current condition.

#### **General Comments:**

Each of the five trees was discussed individually, with notes on condition as they would relate if I were looking at this project from the viewpoint of being completed by the City. Most of the trees are red maple. Red maple is a fast-growing native species, but a poor compartmentalizer of decay. This is an important factor when predicting how damage to the root system will result in decay and the long-term prognosis as a sustainable member of the urban forest canopy.

- #42 Dayton St: This elm tree has significant tip dieback throughout the entire crown. Some of the deadwood is greater than 4" diameter. This tree would absolutely be a candidate for removal as it is exhibiting signs of decline and root health issues.
- #22 Dayton St: This middle-aged red maple is in good condition. There are signs of girdling roots and the root flare is widespread and restricted by the existing sidewalk. Though the tree is in good condition, it is my opinion that the root system of this tree would be heavily impacted during construction. This tree would be a candidate for removal.
- #18/#16 Dayton St: This middle-aged red maple is in good condition. There are signs of girdling roots, but possible to work around.
- #12 Dayton St: This small red maple is in good condition. It would not be difficult to work around.
- #4 Dayton St: This red maple would be significantly impacted during the construction process. Though the tree is in good condition, the root flare is extensive, and the sidewalk is in severe disrepair.

#### **Conclusion:**

A public hearing was held to provide transparency around the project and to give residents the opportunity to learn more about the specifics and voice their concerns. The trees along Dayton St fall under the jurisdiction of the State and as Tree Warden for the City of New Haven, I cannot decide to preserve the trees and work around them. It is not the City's policy to remove trees in good condition when completing a sidewalk project; the Engineering Department and the Tree Warden always work closely together to modify plans so that a tree is properly managed during the construction process. The City greatly appreciates all the benefits urban trees provide, but public safety and the ability to safely travel on Dayton St will need to take precedence over the trees in this case. The City will need to follow the State's policy in order to get a permit and the trees will be removed. Following the public hearing I did reach out to the State once again with the same response- the trees need to be removed. The Engineering Department and I will work towards securing a Maintenance Agreement with CT DOT that will allow us to replace the lost trees and replant additional trees into vacant spaces with climate resilient species that are well suited to the narrow tree belt and heavy vehicular traffic plus associated pollutants. I will work closely with Urban Resources Initiative, the City's sole-source contractor for tree planting, to provide outreach on Dayton St and coordinate adopters for the new trees. The construction on this project is anticipated to begin in spring.

According to the sec. 23-59, "Any party aggrieved by this decision may, within ten days, appeal therefrom to the superior court for the judicial district".



Anastasia Shutts Mixsell  
Tree Warden, Tree System Coordinator  
City of New Haven Department of Parks and Public Works  
amixsell@newhavenct.gov  
203-946-8092